



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Kim Parris
Common Sense Exchange
d/b/a Rally for Common Sense
498 So. Fifth Street
St. Louis, MO 65617

JUL 22 2013

RE: MUR 6627
Common Sense Exchange d/b/a
Rally for Common Sense

Dear Ms. Parris:

On August 22, 2012 and September 11, 2012, the Federal Election Commission notified you of a complaint and supplemental complaint alleging violations on the part of Rally for Common Sense of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Copies of the complaint and supplemental complaint were forwarded to you at that time.

Upon further review of the allegations contained in the complaint, the Commission, on July 9, 2013, voted to dismiss the allegation that Common Sense Exchange d/b/a Rally for Common Sense made a prohibited in-kind corporate contribution in violation of 2 U.S.C. § 441b. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

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If you have any questions, please contact Kimberly Hart, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in dark ink, appearing to read "M. Shonkwiler".

Mark Shonkwiler
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

MUR 6627

RESPONDENTS:

Common Sense Exchange d/b/a Rally for Common Sense

Jonica Hope

I. INTRODUCTION

This matter was generated by a complaint filed by Thomas Shane Stilson. *See* 2 U.S.C. § 437(g)(a)(1). C. Michael Moon was a candidate in the 2012 Republican primary in the Missouri seventh congressional district. His principal campaign committee is Mike Moon for Congress and Craig Comstock in his official capacity as treasurer (the "Committee"). Common Sense Exchange d/b/a Rally for Common Sense is a non-profit corporation. Jonica Hope is an alleged Committee volunteer and webmaster for the rally held by Common Sense Exchange.

The Complaint alleges that Respondents violated the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations in connection with Moon's acceptance of an in-kind contribution resulting from the waiver or payment by a third party of a \$1,000 booth rental fee at a rally.

Separate responses were filed by Moon, and the Committee. *See* Moon Resp. (Sept. 10, 2012), and Committee Resp. (Sept. 10, 2012). Common Sense Exchange and Jonica Hope did not submit Responses.¹ As detailed below, the Commission decided to dismiss, as a matter of

¹ The Commission attempted to notify Common Sense Exchange on two separate occasions (August 22, 2012, and September 11, 2012) at the same address found on its website, but both packages were returned as undeliverable. It also sent a notification letter to Jonica Hope but did not receive a response from her. *See* Letter to Kim Paris, Common Sense Exchange Rally d/b/a Rally for Common Sense from Jeff Jordan, CELA (Aug. 22, 2012)

1 prosecutorial discretion, the allegations relating to the receipt of a \$1,000 prohibited in-kind
2 corporate contribution pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985).

3 II. FACTUAL AND LEGAL ANALYSIS

4 The Committee had a booth at the May 19, 2012, Rally for Common Sense, which was
5 staged by Common Sense Exchange. The Complaint alleges that Jonica Hope, a Committee
6 volunteer and webmaster for the Rally, may have waived the \$1,000 booth fee for the
7 Committee. Compl. at 2. If Common Sense Exchange made an in-kind contribution, it would
8 have violated 2 U.S.C. § 441b because Common Sense Exchange is non-profit corporation. See
9 <http://www.sos.mo.gov/kbimaging/29374539.pdf> (last accessed Feb. 2, 2013). On this basis, the
10 Complaint alleges that the Rally may have made, and the Committee may have accepted and
11 failed to report, a prohibited corporate in-kind contribution from Common Sense Exchange in
12 violation of 2 U.S.C. §§ 441b and 434(b). *Id.*

13 The Committee responds that the July 2012 Quarterly Report does, in fact, contain an un-
14 itemized expenditure totaling \$750 in connection with the Rally. Committee Resp. at 1; Moon
15 Resp. at 2; see July 2012 Quarterly Report (Summary Page) (filed on Jul. 14, 2012). Neither
16 response, however, indicates that the \$750 disbursement was for the booth rental fee. *Id.*
17 According to the Committee, it may have “misinterpreted” the filing requirements regarding this
18 expenditure, but it is willing to amend the report to itemize this particular disbursement. *Id.* The
19 meaning of the Committee’s statement is unclear. It may indicate that the \$750 expenditure
20 represents the booth rental fee but that the Committee was unaware it was required to itemize the
21 expenditure. The Committee does not, however, address the \$250 difference between the \$1,000

and (Sept. 11, 2012) (Notification Letters); Letter to Jonica Hope from Jeff Jordan, CELA (Aug. 22, 2012) (Notification Letter).

1 fee and the \$750 reported expenditure. Further, the Committee does not dispute the information
2 showing that federal candidates were required to pay \$1,000 for the booth rental. Compl., Ex.
3 A1.

4 Since we were unable to notify Common Sense Exchange, and Jonica Hope did not file a
5 response, we cannot determine the reason for the \$250 variance. It is possible that Common
6 Sense Exchange provided a commercially reasonable discount from \$1,000 to \$750, that
7 Common Sense Exchange provided a discount resulting in a \$250 in-kind contribution, or that
8 Common Sense Exchange waived the fee altogether.

9 Regardless, we do not believe that this potential violation warrants further action by the
10 Commission, given the resources that would be necessary to investigate the matter which
11 involves a negligible amount of money. Accordingly, the Commission decided to exercise
12 prosecutorial discretion and dismiss the allegation as to Common Sense Exchange, the
13 Committee, Moon, and Hope pursuant to *Heckler v. Chaney*.